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Letter dated 21 November 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 4 October 2002 (S/2002/1158).

The Counter-Terrorism Committee has received the attached supplementary report from Guyana, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 31 July 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Guyana to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to transmit herewith to you, in your capacity as Chairman of the Counter-Terrorism Committee, the response of the Government of Guyana to the preliminary comments/questions of the Committee on Guyana's initial report, as well as a request for technical assistance under the Committee's technical assistance programme (see enclosure).

Our Mission stands ready to facilitate provision of any further information and/or clarification that may be required.

(*Signed*) George **Talbot**
Chargé d'affaires a.i.

Enclosure

THE CO-OPERATIVE REPUBLIC OF GUYANA

RESPONSE TO PRELIMINARY COMMENTS/QUESTIONS OF THE COUNTER-TERRORISM COMMITTEE ON GUYANA'S INITIAL REPORT*

July 2003

* Appendices are on file with the Secretariat and are available for consultation.

THE COOPERATIVE REPUBLIC OF GUYANA

RESPONSE TO PRELIMINARY COMMENTS/QUESTIONS OF THE COUNTER-TERRORISM COMMITTEE ON GUYANA'S INITIAL REPORT

Sub-paragraph 1 (a)

Are natural or legal persons other than banks (e.g. Attorney, notaries) required to report suspicious transactions that might be linked to terrorist activities to the public authorities? If so, what penalties apply to persons who omit to report either or by negligence?

The Criminal Law (Offences) Amendment Bill 2002, which defines a terrorist act, seeks to impose a monetary penalty to act as a deterrent to persons who commit acts of violence. There are no specific provisions relating to financial transactions.

What are the penalties applicable to licensed financial institutions that fail to comply with Circular No. 66/2001 of 5 December 2001 as amended by Circular No. 68/2001 of 11 December 2001?

There is no penalty prescribed for licensed financial institutions that fail to comply with Circular No. 66/2001 of 5 December as amended by Circular No. 68/2001 of 11 December 2001. The issuing of the Circulars was a preliminary step taken by Guyana in an effort to combat the financing of terrorism until such time domestic legislation dealing with the financing of terrorism was enacted.

Guyana is presently considering model legislation with a view to enacting a comprehensive legislation dealing with combating and financing of terrorism.

Do informal banking networks (e.g. Hawala) or unlicensed financial institutions exist in Guyana? Please outline the legal provisions regulating them, if any.

There are no known informal banking networks that exist in Guyana. Under the Financial Institutions Act, the Bank of Guyana licences companies, banking businesses and entities that carry on financial business.

What are the steps that Guyana envisages to take in order to enhance its capacity to prevent and suppress the financing of terrorist activities?

Guyana is a signatory to the OAS Inter-American Convention on Terrorism, which was signed in June 2002 at the OAS General Assembly Meeting. At present efforts are being made to implement the Convention.

Also, see response Sub-paragraph 1 (a) section (b) above. In addition it is expected that the proposed new legislation to be enacted will include clear provisions for the freezing and forfeiture of property belonging to persons who are involved in financing of terrorism. Also Guyana proposed to amend the Money Laundering (Prevention) Act to include the offence of financing of terrorism and terrorism as prescribed offences and to establish a Financial Intelligence Unit. These proposals are already with the drafting Department of the Attorney General's Chambers.

It should be mentioned that these proposals, prior to implementation, are subjected to the approval of Cabinet.

Sub-paragraph 1 (b)

Could Guyana outline the proposed legal provisions which aim at preventing, suppressing and criminalizing the financing of terrorist acts as requested under sub-paragraph 1 (b) of the Resolution.

The action plan for Guyana is outlined at Sub-paragraph 1(a) sections (b) and (d).

Sub-paragraph 1 (c)

What legal provisions are proposed for the freezing or confiscating of funds of persons and entities who are not named in the lists mentioned in Circular No. 66/2001 of 5 December 2001 as amended by Circular No. 68/2001 of 11 December 2001 but are, in fact, connected with terrorist activities inside or outside of Guyana?

A draft domestic legislation is being reviewed, which would provide the basis in law for the freezing and confiscation of funds of persons and entities who are named in the lists mentioned in the circulars. There is no legal basis for freezing or confiscating of funds of persons and entities not named in the said circular.

Please explain how funds etc. can be frozen in Guyana upon the request of foreign authorities.

Circulars No. 66/2001 and 68/2001 which attached the lists with regard to freezing of assets of terrorist groups and individuals pursuant to United Nations Resolution 1333, 1368 and 1373 were circulated to all commercial banks in Guyana and authorizes the immediate identification and freezing of financial assets belonging to terrorists and their organisations.

The Money Laundering (Prevention) Act has a regime under which assistance can be given to foreign countries. Section (1) states that "the Court or

Competent Authority shall corporate with the Court or other Competent Authority of another State, taking the appropriate measures to provide assistance in matters concerning money laundering offences, in accordance with this Act, and within the limits of their respective legal systems" A copy of the Act is attached.

Sub-paragraph 1 (d)

How does the financial tracking system ensure that funds received by associations are not diverted from their stated purposes to terrorist activities?

In this regard, a regime to monitor the movement of resources has not yet been developed. Nevertheless, there is at present the regime available under the Money Laundering (Prevention) Act for the reporting of suspicious transactions by financial institutions. Further, it is an offence to aid, abet and facilitate the commission of a terrorist act.

Sub-paragraph 2 (a)

What are the existing or proposed legislative measures to control the acquisition and export of weapons and explosives? What steps have been taken in Guyana towards ratification and implementation following the signature by Guyana of the Inter-American Convention against Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other related materials?

The Firearms Act Chapter 16:05 and the Explosive Act Chapter 16:06 of the Laws of Guyana are the principal legal instruments enacted for the control of firearms, ammunition and explosives.

The Firearms Act makes provision for:

- Production of firearms, distinguishing marks and registration

- Supervision of importation of firearms and ammunition
- Regulations for purchase, possession, manufacturing and sale of firearms and ammunition
- Prohibition of importation of certain weapons and ammunition
- Prohibition of sale etc. of arms and ammunition to criminals, drunks or insane persons or to persons under the age of 18 years
- Forfeiture of firearms and cancellation of licence and permit
- Penalties for violation of the provisions of the Firearms Act
- Importation and exportation of explosives
- Storage of explosives
- Sale of explosives
- Removal and transportation of explosives
- Prohibition of manufacture of especially dangerous explosives
- Seizure and detention of explosives liable to forfeiture
- Penalties for violation of provisions of the Explosives Act.

With regard to ratification of the Inter-American Convention against Illicit Manufacture of and Trafficking in Firearms, Ammunition, Explosives and other related materials, this matter is currently engaging the attention of the relevant subject Ministry. It should be noted that Cabinet approval is needed before further steps can be taken towards ratification and implementation of the Convention.

Please outline the measures, both legislative and practical, which are proposed in order to prevent entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside of Guyana.

Although Guyana has now criminalized the commission of a "terrorist act" and has provided for the criminalization of ancillary offences such as aiding, abetting, inciting, facilitating...etc the commission of terrorist acts, nowhere in Guyana's legislation is the financing of terrorism a specific offence. In this regard the proposed new legislation to be enacted would deal not only with terrorism, but also the financing of terrorism. This legislation is expected to criminalize the provision or collection of property for the commission of terrorist acts.

Sub-paragraphs 2 (b) and 3 (b)

Which are the institutions in Guyana responsible for providing early warning and information to other states?

The Ministry of Home Affairs is the institution responsible for receiving from and transmitting to other states early warning and other classified information. The Guyana Police Force and the Immigration Department fall under this Ministry through which information is shared with other countries.

Please provide the CTC with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.

This question infers the existence of linkages in Guyana between narcotic trafficking, money laundering, border security and movement of terrorist. Guyana

has in place cross-border and regional arrangements for cooperation in criminal matters particularly in drug and firearms offences.

Cooperation in the area of narcotics control and security is done via the sharing/exchange of information through various channels such as Police to Police, Immigration to Immigration. Further Guyana cooperates with several international organizations in criminal matters, for example the Interpol, FBI and Drug Enforcement Agency.

However, to date, local intelligence has provided no indication that terrorists have been crossing our borders.

At the National level information is shared among members of the National Anti-Narcotic Commission, National Security Committee, Joint Intelligence Committee, national Aviation Security Committee etc. Presentation may be oral, written reports or electronic text. Every precaution is taken to secure the channels of classified information and the information itself.

Sub-paragraph 2 (c)

Will the Minister of Home Affairs prohibit the entry of those aliens who finance, plan, support, or commit terrorist acts? Please give examples of relevant action already taken, if any.

In Guyana, there exists the power under the Immigration Act and the Expulsion of Undesirables Act to prohibit the entry of persons into Guyana. Acting in the exercise of these powers the Minister may, if satisfied that a person is involved in the commission of or in any way supports the commission of a terrorist act, prohibit his/her entry into Guyana.

To date, there has been no such person who has sought entry into Guyana. The Government of Guyana also responds to requests by signatories to the relevant Conventions to prohibit entry.

Sub-paragraph 2 (d) and (e)

What are the proposed legislative measures for the implementation of sub-paragraph 2 (d) and (e) of the Resolution?

As indicated earlier, the Government of Guyana proposes to introduce to Parliament specific legislation to deal with the matter of terrorism, which would encompass the creation of a criminal offence in respect of the provision of safe haven to those finance, plan, support or commit terrorist acts.

What is the competence of the courts of Guyana to deal with criminal acts of each of the following kinds:

(a) an act committed within Guyana by any person (whether that person is currently present in Guyana or not);

(b) an act committed in Guyana by a person who is a citizen of, or habitually resident in, Guyana (whether that person is currently present in Guyana or not);

(c) an act committed outside Guyana by a foreign national who is currently in Guyana?

Once the act committed constitutes an offence under the Laws of Guyana, under the international principle of territorial sovereignty over a State's national, the Courts of Guyana will have jurisdiction to deal with these acts. However, Guyana, in any of the cases outlined above, could opt to give its jurisdiction to another State under its Extradition laws, which is embodied in the Fugitive Offenders Act. This Act sets out the procedures to be followed for extradition.

In the case of a person who commits an offence in Guyana but is absent from Guyana, a warrant can be issued for the arrest of such persons. Charges can be laid in the court, but the trial cannot proceed unless the person is present.

Sub-paragraph 2 (f)

What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met and how long does it actually take in practice to implement such a request in Guyana?

There is no timeframe within which a request for assistance can be met. However, such requests can be dealt with on a case-by-case basis, based on a request received or if the request is made through an Agreement between the parties involved or through a letter Rogatory.

Please provide the CTC with a progress report on Guyana's accession to the Inter-American Convention on Mutual Legal Assistance in Criminal Matters and the implementation of that Convention in Guyana.

Guyana is in the process of drafting a Mutual Legal Assistance Bill. This Bill proposes to incorporate some of the provisions of the Inter American Convention on Mutual Legal Assistance in Criminal Matters.

Sub-paragraph 2 (g)

Please elaborate on the increased security measures Guyana has implemented at its points of entry.

Since September 11, Guyana has increased security at seaports, land ports and at the country's national airport.

At each port of entry the immigration authority has a current list of names of international criminals against which passenger's manifests and passports are compared.

The arrival of any of the listed criminals at any of the ports of Guyana triggers a course of action culminating in either arrest or detention of the undesirable alien or his deportation.

In airport security, steps have been taken to increase the security of the terminals and of internal and international flights. In this regard, the following measures have been taken:

The National Aviation Security Committee (NASC) has been established. The NASC advises the Government on policy changes needed for improving aviation security.

The NASC has reviewed airports standards, procedures and regulations and has influenced changes to adapt to the new security reality. New electronic screening machines have been installed. There is thorough checking of the person and of all personal luggage for weapons, drugs and offensive implements.

Workers at the airports are more thoroughly screened before employment and issuance of security passes.

There has been training at all levels to upgrade the security skills of persons at airports.

Please explain how the procedures for the issuance of identity papers and travel documents help prevent the counterfeiting, forgery or fraudulent use of those documents and what other measures exist to prevent their forgery etc.

The Guyana Passport and Emergency Travel Document are manufactured with security features with some degree of difficulty to forge. Applicants for such documents must satisfy the issuing authority as to his/her identity by presentation of a birth certificate, a national I.D card and an endorsement from a well-respected citizen vouching for the identity of the applicant and the likeness of the photograph which will be affixed to the document.

Persons who have been suspected of forgery of Guyana travel documents are arrested, charged and prosecuted in the courts.

Guyana is presently involved in a project to enhance immigration procedures and strengthen security. This project involves making Guyana travel documents machine readable to better detect and prevent forgery. Guyana is also in the process of computerizing the management of information at the immigration office.

Sub-paragraph 3 (c)

Please describe how Guyana cooperates with other states in particular in the framework of the Organization of American States (OAS) and the Caribbean Community (CARICOM), in order to implement the Resolution.

Guyana has participated in the Meetings convened under the OAS and has supported the Resolutions adopted by this body committing governments to strengthen cooperation to prevent, combat and eliminate terrorism in the hemisphere.

Within the region, Heads of Government of the Caribbean Community at the 23rd Meeting of the Conference of Heads of CARICOM which was held in Georgetown, 2002, agreed on the following initiatives, which were recommended by the Regional Task Force on Crime and security:

(i)establishment of National Commissions on Law and Order;
(ii)preparation and implementation of National Anti-Crime Master Plans;
(iii)strengthening border control measures especially at seaports and airports;
(iv)strengthening the Information and Intelligence exchange regime as an essential element in the fight against illegal drugs, firearms and terrorism;
(v)implementation of an aggressive programme aimed at taking guns off the streets;
(vi)establishment of a Regional Mutual Legal Assistance Regime; and
(vii)engagement of the International Community in discussions regarding mutual support for the Region's crime control efforts and the critical review of the existing policy against illegal drugs.

Has Guyana entered into bilateral agreements to prevent and suppress terrorist attacks and take action against perpetrators of such acts? In particular, the CTC would be grateful to know with which countries Guyana has entered into bilateral treaties on extradition and mutual legal assistance.

There exists no such bilateral agreement between Guyana and any other country at present. However, Guyana is currently reviewing a draft Agreement with Brazil in this regard with a view to concluding the matter.

Sub-paragraph 3 (d)

The CTC would welcome a progress report, in relation to the international conventions and protocol relating to terrorism, on the steps taken with regard to:

Becoming a party to the instruments to which Guyana is not yet a party; and

Enacting legislation, and making other necessary arrangements to implement the instruments to which it has become a party.

The Conventions to which Guyana is not yet a party are currently being re examined prior to submission to Cabinet.

Sub-paragraph 3 (e)

Have the offences set forth in the relevant international conventions and protocols relating to terrorism been included as extraditable offences in the bilateral treaties to which Guyana is a party?

Guyana has acceded to the 1935 Extradition Treaty between the United Kingdom and the United States of America. However, offences related to terrorism are not included in this Treaty.

Sub-paragraph 3 (f) and (g)

Please outline the measures or procedures, which Guyana proposes to take in order to meet the requirements of sub-paragraph 3 (f) and (g) of the Resolution.

Does Guyana's legislation ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists?

Guyana has no programme, domestic legislation for the granting of refugee status and does not grant such status for purposes of residing permanently in Guyana. Guyana, however, is currently examining the Convention on the status of refugees and the 1967 Protocol with a view to acceding to them.

The Fugitive Offenders Act recognizes offences of a political character as exceptions to extradition.

However, this exception is a general character and does not speak to terrorism specifically.

Paragraph 4

Has Guyana addressed any of the concerns expressed in paragraph 4 of the Resolution?

Guyana is a small developing country with limited financial and technical resources, and will therefore require assistance in the implementation of the required Security Council Resolution 1373.

The proposals for legislative and other changes require, technical assistance in areas such as, acquisition of appropriate equipment in order to upgrade the security of its ports of entry, training of personnel including detection of fraudulent travel documents. Technical and financial assistance is also required to review Guyana's legislative and administrative capacity to implement the necessary action to fight terrorism.

Please see attached a list which sets out Guyana's requirements for technical assistance.

July, 2003

ATTACHMENTS*

Appendix I - Money Laundering Act

Appendix II - Guyana's Request for Technical Assistance under the Terrorism Committee Assistance Programme

Appendix III - Inter-American Convention on Terrorism signed in June 2001

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